

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7163 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

RAMANLAL MOHANLAL KHAMBHOLJA

Versus

STATE OF GUJARAT

Appearance:

MR PM THAKKAR for Petitioner

Mr VB Gharania, AGP for Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 26/03/99

ORAL JUDGEMENT

This is the petition for quashing the seniority list issued and published by respondent No. 3 for the post of Agriculture Supervisor in the scale of Rs. 425-700, in class III service of the 1st respondent as being illegal, null and void and to direct the respondents to prepare fresh list for the post of agriculture supervisor in accordance with law and to fix

the petitioner's seniority accordingly with all consequential benefits and for further direction to include the petitioner's name in permanent set up and delete the petitioner's name from the supernumerary persons.

2. The petitioner was appointed as Horticulture Assistant on 9.10.1954 and, thereafter, he was promoted to the post of agriculture assistant Gr. II on 1.11.1956. The petitioner was further promoted to the post of agriculture assistant Gr. II on 25th January, 1963. The petitioner was also promoted to the post of Agriculture Assistant Gr.I on 14.2.1969. He was, thereafter, promoted to the post of Agriculture supervisor with effect from 16.5.1963 by order dated 8.10.70. The petitioner has also passed departmental examination in May, 1984 and he is holding the post of agriculture supervisor till the date of filing of this petition. Some of the employees in the cadre of agriculture assistant filed the writ petition before this Court and the Government was directed to consider the case of the petitioners of that petition for promotion to the post of agriculture supervisor. According to the directions of the Court, the respondents were directed to consider the cases of those petitioners for promotion as agriculture supervisor in the year 1983. At that time, the petitioner was working as agriculture supervisor and those employees were junior to the petitioner. The State of Maharashtra published the seniority list on 4.1.1982 showing the position of the employees as on 1.11.1956 in the cadre of agriculture assistant and all those employees were shown junior to the petitioner as they joined the service as such much later than the petitioner herein. Though the petitioner was promoted as agriculture supervisor on 16.5.1963 and those employees were promoted to the said post in the year 1983 pursuant to the Court's directions, as such, the petitioner is senior to those employees in the list of the agriculture supervisor published on 18.8.1982. For the first time in the seniority list which was published on 26th December, 1983, they were shown junior to the petitioner. Pursuant to the Court's directions, the respondents have created supernumerary post in order to accommodate those persons who filed the said writ petition. Hence, the State Government created supernumerary posts in order to accommodate the successful persons of the said writ petition and issued the Government Resolution dated 12.8.1983 whereby the persons already promoted were directed not to be reverted. In implementation of the said Government Resolution, the petitioner has been shown in supernumerary post as if he was the employee who has

now become junior by virtue of the seniority list published by the Government on 4.1.1982. The grievance of the petitioner is that while implementing the Government resolution, the respondents have committed serious irregularity which has caused substantial injustice to the petitioner. It is also stated that some of the persons have been excluded and some of the employees have been included in the list on the basis of the Government Resolution. It is also stated that the persons shown at sr.no. 26, 29, 34, 47, 60, 73, 100, 120, 136, 143, 148, 542, 576, 622, 669, 676, 689, 710, 716, 719, 722, 725, 728, 731, 734, 743, 758, 761, 764 and 767 in the seniority list dated 26th December, 1983 are junior to the petitioner in view of the fact that they have failed to pass the departmental examination within the prescribed time and prescribed chances. But they have been shown senior to the petitioner and they have been placed in the permanent set up whereas the petitioner who is senior to all of them has been placed in the supernumerary list.

3. List has been revised. None appeared on behalf of the petitioner to this petition. It appears that the petitioner is claiming seniority over several persons but those persons have not been joined as party respondent. Hence the petition is liable to be dismissed for nonjoinder of party. Accordingly the petition is dismissed. Rule is discharged. There shall be no order as to costs.

26.3.1999. (Kundan Singh,J.)

Vyas